

ARKANSAS SUPREME COURT

No. CR 06-149

NOT DESIGNATED FOR PUBLICATION

ANDREW NEELY, JR.
Appellant

v.

STATE OF ARKANSAS
Appellee

Opinion Delivered April 6, 2006

PRO SE MOTION FOR EXTENSION OF TIME
TO FILE BRIEF AND FOR ACCESS TO
RECORD [CIRCUIT COURT OF PULASKI
COUNTY, CR 97-1293, HON. JOHN
LANGSTON, JUDGE]

MOTION GRANTED

PER CURIAM

In 1997, Andrew Neely, Jr., was found guilty by a jury of residential burglary and rape and sentenced to 480 months' imprisonment and fined \$15,000. The Arkansas Court of Appeals affirmed. *Neely v. State*, CACR 97-1486 (Ark. App. June 17, 1998).

Subsequently, Neely timely filed in the trial court a *pro se* petition pursuant to Criminal Procedure Rule 37.1 challenging the judgment. The petition was denied. We affirmed the order. *Neely v. State*, CR 99-386 (Ark. September 28, 2000) (*per curiam*).

In 2005, Neely filed in the trial court a *pro se* petition for writ of *habeas corpus* pursuant to Act 1780 of 2001, codified at Ark. Code Ann. §§ 16-112-201--207 (Supp. 2003). Act 1780 provides that a writ of *habeas corpus* can issue based on new scientific evidence proving a person actually innocent of the offense or offenses for which he or she was convicted. Ark. Code Ann. §§ 16-112-103(a)(1) (Supp. 2003), and §§ 16-112-201--207; *see Echols v. State*, 350 Ark. 42, 44, 84 S.W.3d 424, 426 (2002) (*per curiam*). The trial court denied the petition, and Neely has lodged an appeal from the order in this court.

Appellant Neely, who is in the custody of the Arkansas Department of Correction and proceeding *pro se*, now seeks an extension of time to file the appellant's brief and access to a copy of the record lodged in this appeal to prepare the brief. As an appellant must abstract those portions

of the record pertinent to the appeal, the motion is granted. Our clerk will provide appellant with a copy of the record so that he may prepare his brief. The appellant's brief is due here no later than forty days from the date of this opinion. The copy of the record must be returned to this court when the brief is submitted.

Motion granted.